

REMARKS

This communication is a full and timely response to the non-final Office Action dated January 7, 2009. Claims 1-11, 13-44, 46-78, 80-112, and 114-140 remain pending, where claims 12, 45, 79, and 113 were previously canceled. By this communication, claims 1, 8, 35, 41, 68, 71, 75, 102, 105, and 108 are amended, and claims 137-140 are added. Support for the amended subject matter can be found, for example, in Fig. 3A and on page 6, lines 5-9 of the disclosure.

The Office alleges that Applicants' pending claims are unpatentable under 35 U.S.C. §103. Particularly, in numbered paragraph 5 on page 3 of the Office Action, claims 1-6, 8-11, 13-16, 27-34, 35-39, 41-44, 49, 60-67, 68-73, 75-78, 80-83, 94-101; 102-107, 109-112, 114-117, 133-136 are alleged to be unpatentable over the combination of Applicants' alleged admitted prior art (AAPR), *Thompson et al* (U.S. Patent Publication No. 2002/10077900), *Portuesi et al* (U.S. Patent No. 5,774,666) and *Katinsky et al* (U.S. Patent No. 6,452,609); in numbered paragraph 26 on page 9 of the Office Action, claims 7, 40, 74, and 108 are allegedly unpatentable over the combination of AAPR, *Thompson*, *Portuesi* and *Katinsky* and further in view of *Abato et al* (U.S. Patent No. 6,513,069); and in numbered paragraph 28 on page 9 of the Office Action, claims 17-26, 50-59, 84-93, and 118-132 are alleged to be unpatentable over the combination of AAPR, *Thompson*, *Portuesi* and *Katinsky* and further in view of *Smith* (U.S. Patent No. 6,448,986). Applicants respectfully traverse these rejections.

As provided in Applicants' disclosure, exemplary embodiments are directed to a computer network 10 that includes a user computer 12 and a plurality of servers 14

that are connected via the Internet. Web pages and downloadable video files are stored at each server 14. To play a video file, the user computer must access and retrieve that file from the server 14 over the Internet. Each video file includes a header 36 and the header includes a mode flag 38. The user computer 12 downloads a video file 32 in response to a request, which includes the selection of a link 46 that is associated with the video file 32 on a user interface of the user computer 12. Browser software 24 in the user computer 12 detects a header 36 of the downloaded video file 32. The header 36 includes a mode flag. When the browser software 24 detects the header 36 it launches the video player 26 in a display mode indicated by the mode flag.

By launching the video player in a display mode determined by the mode flag in the video file, each video file can be displayed in a different display mode. That is, a first downloaded video file can be displayed in a full screen mode and a second downloaded video file can be displayed in a non-full screen mode, such that the video file dictates the mode in which the video player is displayed.

Applicants' claims 1, 35, 68, 102, and 136 broadly encompasses the foregoing features. For example representative claim 1 recites the following:

A method for playing full screen video on a user computer comprising:
displaying in a user interface at said user computer a web page containing at least one link to an electronic video file;
selecting said link to request said video file;
downloading said video file to said user computer in response to said request;
detecting by said user computer an initial receipt of said video file, wherein said detecting includes determining a display mode of the video file;
opening in said user interface a window of a video player in full screen mode in response to said detecting; and
reading said video file by said player to play said video in said window
encoding said video file with a header and a plurality of tracks;
inserting instructions into a selected one of said tracks;

wherein said instructions are readable by said player so that said player displays information in response to the instructions.

Similarly, representative claim 35 recites:

An apparatus in a computer network having a server, at least one web page accessible through said server and a user computer programmed with browser software to display a copy of said web page when connected to said server, the apparatus comprising:

a video file having a header, said header having a mode flag, said video file being identified by a link in said web page, said web server downloading said video file to said user computer in response to selection of said link, said browser software detecting said header; and

a video player executable in said user computer, said player being launched in response to said browser detecting said header to receive said video file during downloading thereof, said video player opening in a mode indicated by said mode flag,

said video file is encoded with a plurality of tracks, a selected one of said tracks containing instructions readable by said player,

wherein one of said instructions is a first instruction relating to a download status of said video file, said player displaying at least one status indicator in response to said one of said instructions.

Contrary to the assertions made by the Office, the applied references fail to render Applicants' claims as obvious.

In the background section of the disclosure, Applicants discuss the state of the art with respect to the downloading of video files prior to the filing date of the application. As described, conventional video players display downloaded video files based on the setting of user preferences in the video player prior to the video being downloaded. Once the user preference is set, each downloaded video file is displayed using the same display mode as indicated by the preference setting of the video player.

Thompson discloses a technique of delivering media content, in which a user requests the delivery of data to a user requested address (URL). The requested content is delivered to the user through a remote data server sending a web page

having an embedded media player to the user address. The media player provides a visual display to the user which includes all types of video or audio visual content. The visual display can include a full-screen display feature. Thompson states, "[w]hile using the media player full screen mode, the media player may be programmed such that it can react to user commands that would normally shrink the video back to the original player size." Thompson, pgph [0025].

Applicant acknowledges that *Thompson* discloses that the media player can be displayed in a full screen mode. However, this reference does not disclose that full screen mode is executed based on a reading of the header of the video file as recited in Applicants' claims. In fact, it appears that *Thompson* is no different from the conventional video players described in Applicants disclosure (see Background Section), whereby the display mode of the video player is determined by a preference setting of the video player and can only be changed after a video file is downloaded.

Katinsky discloses a technique in which an object player is used to play a currently selected media object. The object player includes a display window that is first displayed at a default size. The size of the display window can be manipulated by a user through the selection of various radio buttons or other tools. However, like *Thompson* this reference does not disclose that the size of the display window is determined by information provided in the header of the video file. Rather, like *AAPA* and *Thompson* above, the size of the display window is determined by a default setting associated with the display window.

Portuesi discloses a system for the playback of media files. The media file includes an audio track, image track, and URL track. Each track contains

information that is used to play the audio track and display the images and URLs at various locations and a various times in a media player. *Portuesi*, however, fails to disclose that any of the stated tracks, or any other portion of the media file, contains information that indicates a mode for displaying the media file, as recited in Applicants claims.

On page 5 of the Office Action, the Office asserts that when the known concept of detecting receipt of a header video file (*AAPA*), the disclosure of a display window having a default size (*Katinsky*), and the disclosure of the ability to open a video in a full-screen mode (*Thompson*) are combined, Applicants' claimed detecting by said user computer an initial receipt of said video file, wherein said detecting includes determining a display mode of the video file; and opening in said user interface a window of a video player in full screen mode in response to said detecting, as recited in claim 1 and a video player executable in said user computer, said player being launched in response to said browser detecting said header to receive said video file during downloading thereof, said video player opening in a mode indicated by said mode flag, as recited in claim 35, are rendered obvious.

Stated differently, the Office effectively argues that in view of the applied references one of ordinary skill would have known to open a video player in a mode based on a mode flag provided in the header of a requested video file. Applicants disagree.

As discussed above, both *Thompson* and *Katinsky* disclose the capability to display a media player in a full screen mode. Neither of these references suggests that the media player is displayed in response to data obtained from the video file to be opened. Rather, it appears that in both systems the media player is displayed

much like that of conventional systems where the display mode of the media player for each video file is determined by a preference or default setting of the media player. There does not appear to be a sufficient nexus between this feature and the acknowledged feature of detecting the receipt of the header of a video file (AAPA) to establish a *prima facie* case of obviousness as alleged. *Portuesi* discloses that the playback of various portions of a video file can be controlled based on information provided in a corresponding track of the video file. However, because none of the track information disclosed by *Portuesi* is associated with the display mode or size of the media player, Applicants' respectfully submit that this reference fails to bridge the aforementioned technical gap between AAPA and the disclosures of *Thompson* and *Katinsky* to achieve Applicants' claimed results.

Even assuming *arguendo* that a nexus does exist, Applicants respectfully submit that it is established through improper hindsight reasoning from Applicants' disclosure.

In summary, AAPA, *Thompson*, *Katinsky*, and *Portuesi* when applied individually or collectively fail to disclose every element and/or the combination of elements recited in Applicants' claims 1, 35, 68, 102, and 136. Although not discussed in detail above, Applicants respectfully submit that *Abato* and *Smith* fail to remedy the deficiencies of AAPA, *Thompson*, *Katinsky*, and *Portuesi* such that a *prima facie* case of obviousness is established.

The Office has the initial burden of establishing a **factual basis** to support the legal conclusion of obviousness. In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). For rejections under 35 U.S.C. § 103(a) based upon a combination of prior art elements, in KSR Int'l v. Teleflex Inc., 127 S.Ct. 1727, 1741,

82 USPQ2d 1385, 1396 (2007), the Supreme Court stated that "a patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art." "Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some **articulated reasoning with some rational underpinning** to support the legal conclusion of obviousness." In re Kahn, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006) (emphasis added). For at least the foregoing reasons, withdrawal of these rejections is respectfully requested.

Claims 137-140 are newly added. Because these claims variously depend from one of independent claims 1, 35, and 68, and 102, where applicable, Applicants respectfully submit that they are allowable for at least the same reasons discussed above. Accordingly, favorable consideration of these claims is respectfully requested.

Conclusion

Based on the foregoing amendments and remarks, Applicants respectfully submit that claims 1-11, 13-44, 46-78, 80-112, and 114-140 are allowable and this application is in condition for allowance. In the event any unresolved issues remain, the Office is encouraged to contact Applicants' representative identified below.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Date: April 7, 2009

By: /Shawn B. Cage/
Shawn B. Cage
Registration No. 51522

P.O. Box 1404
Alexandria, VA 22313-1404
703 836 6620